AN INTERNATIONAL EXPERIMENT

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THE International Joint Commission has been an experiment, a very unusual and interesting and daring experiment; an attempt to demonstrate in practice certain theories as to the relationship that should exist between two neighbouring peoples; an attempt to extend to the citizens of two nations, without impairing the sovereignty of either, the same spirit of good fellowship and fair dealing that binds together men of common allegiance. One might perhaps call it a League of North America; for, although it does not constitute an offensive or defensive alliance between the United States and Canada, nor affect in any way the relations of either country to any third nation, it does provide the machinery for making conflict or even serious misunderstanding between these two countries a practical impossibility—and that, after all, is a big step forward.

But it has been called an experiment, and this implies that there is still something tentative or provisional in its nature. The International Joint Commission has now been in operation for something over ten years, a period long enough to demonstrate its practicability and its worth to the United States and Canada. It has, or should have, got beyond the experimental period. It has in very truth reached that critical stage when experiments, whether national or international, must of necessity be either accepted as sound policies or rejected as failures. It rests with the people of these two countries, through their governments, to decide the issue. It rests with them either to drop the Commission, as something that has been tried and found wanting, or to accept it as an international agency whose usefulness has been clearly established. But mere acceptance is not enough. This tribunal, like any other human institution, cannot stand still. It must go forward or backward. If the people and their governments are convinced that the Commission fills a real need in the life of these two nations, they are morally and logically bound to see that it does go forward; to remove all obstacles that may lie in the way of its greater use-

fulness; to build it up into an instrument of such unquestionable value that it may well serve as an example to the other nations of the civilized world.

Before attempting to describe what this Commission has actually accomplished since its organization, it may be well to refer very briefly to the convention which gave it birth. The Treaty of January 11, 1909, was the result of long-continued agitation, on the part of far-sighted men on both sides of the boundary, for a more direct and more flexible means of settling disputes between Canada and the United States. Various suggestions were offered from time to time, and in 1907 and 1908 direct negotiations were entered into at Washington, Canada being represented by Mr. (afterwards Lord) Bryce, then British Ambassador to the United States, and the United States by Mr. Root, then Secretary of State. These negotiations finally culminated in the Treaty of 1909, ratified and proclaimed the following year. The Treaty was confirmed, so far as Canada was concerned, by an Act of Parliament in 1911. Special legislation was not necessary in the United States, the Senate having already ratified the Treaty. In doing so, however, it added a rider—introduced by the then Senator from Michigan—which very nearly wrecked the Treaty when it subsequently came up for ratification in the Canadian Parliament. The intention of the rider was evidently just to save such riparian rights as existed on the American side at Sault Ste Marie, but the language was so ambiguous and the apparent object so out of proportion to the great principles involved in the Treaty, as to create a suspicion that more must be involved than appeared on the surface. It was not in fact until the Canadian Premier, Sir Wilfrid Laurier, and his Minister of Justice, Sir Allan Aylesworth, assured Parliament that the rider did not affect in any way the spirit of the Treaty, and produced in corroboration the positive opinion of the Attorney-General of the United States, that it was finally accepted.

The Preamble of the Treaty sets forth its objects:

> To prevent disputes regarding the use of boundary waters, and to settle all questions which are now pending between the United States and the Dominion of Canada involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along their common frontier, and to make provision for the adjustment and settlement of all such questions as may hereafter arise.

The Treaty, it will be seen, is designed not merely to *settle* questions at issue between the two countries, but to *prevent disputes*. The preamble seems to confine it to disputes involving the use of

boundary waters, or interests along the common frontier, but—as will be seen later—some of its provisions go a great deal farther.

The Preliminary Article defines Boundary Waters as—

> The waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers, and waterways, or waters flowing from such lakes, rivers, and waterways, or the waters of rivers flowing across the boundary.

Boundary waters, therefore, include the international portions of the St. Croix and St. John Rivers, between the State of Maine and the Province of New Brunswick; the St. Lawrence River from Cornwall to Kingston; Lake Ontario, Niagara River, Lake Erie, Detroit River, Lake St. Clair, St. Clair River, Lake Huron, St. Mary's River, Lake Superior, the series of small rivers and lakes from Lake Superior over the height of land to Rainy Lake, Rainy River, and the Lake of the Woods, to that minute but very controversial point in diplomatic history—the northwest point of the Northwest Angle Inlet of the Lake of the Woods.

It will be noted that there are three exceptions to "boundary waters" as defined by the Treaty: (1) tributary waters which in their natural channels would flow into such lakes, rivers and waterways—such as the Seneca, Genesee and Sandusky, on the United States side, and the Grand, Thames and Michipicoten, on the Canadian side; (2) waters flowing from such lakes, rivers, and waterways as the Winnipeg, lower St. Lawrence and lower St. John; (3) waters of rivers flowing across the boundary—such as the Richelieu, Red, Souris, St. Mary, Milk, Columbia and Kootenay.

Article I of the Treaty provides that "the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally," subject to the laws and regulations of either country not inconsistent with the privilege of free navigation. And it is further agreed that "so long as this treaty shall remain in force, this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters, and now existing or which may hereafter be constructed on either side of the line". The right is reserved to either country to adopt rules and regulations governing the use of its canals, and to charge tolls for the use thereof, so long as these

apply equally to the citizens and vessels of both countries. Absolute equality of use is the governing principle of this Article.

It is a debatable point among geographers whether or not Lake Michigan comes within the definition of boundary waters, as a "bay, arm or inlet" of Lake Huron; but it seems clear from the language of Article I that that is not the intention of the Treaty, as the navigation of Lake Michigan is granted to Canada "so long as this treaty shall remain in force", as an additional privilege to the "navigation of all navigable boundary waters", which has no limitation as to time. Mr. Paul Morgan Ogilvie, in his very informative treatise on International Waterways, for some reason goes to the other extreme. In listing the boundary waters between Canada and the United States, he excludes not only Lake Michigan but also that portion of Lake Huron known as Georgian Bay.

The provisions of Article I include the United States and Canadian canals at Sault Ste Marie, the Welland canal, the St. Lawrence River canals above the point where the international boundary strikes the river, and some smaller artificial waterways. It excludes such canals as the Erie on the United States side and the Rideau on the Canadian side, which do not connect boundary waters, as well as the St. Lawrence canals between Cornwall and Montreal, which lie below the point where the international boundary strikes the river.

By Article II of the Treaty of 1909, each of the High Contracting Parties reserves its national jurisdiction and control over the use and diversion of waters flowing across the boundary or into boundary waters; but it is provided that "any interference with or diversion from their natural channels of such waters on either side of the boundary, shall give rise to the same rights and entitle the injured parties to the same legal remedies as if such injury took place in the country where such diversion or interference occurs." Cases already existing at the date of the Treaty, or expressly covered by special agreement between the parties, are excepted. The High Contracting Parties also reserve the right to object to any interference with or diversion of waters on the other side of the boundary, "the effect of which would be productive of material injury to the navigation interests on its own side of the boundary."

The provisions of this Article are very significant. They give Canadians the right to go into the courts of the United States and seek redress for injury sustained, and give Americans similar rights in Canadian courts. So far as grievances arising along the frontier are concerned, its effect is to erase the boundary and pool

the resources of American and Canadian courts for the benefit of the people on both sides of these waterways.

Articles III and IV confer direct jurisdiction on the International Joint Commission, in the first case as to boundary waters, and in the second as to waters flowing from boundary waters, or waters at a lower level than the boundary in rivers flowing across the boundary. Works contemplated in any of these classes of waterways must have the authority of the government within whose jurisdiction they fall, but in addition to this national authority they must have the approval of the International Joint Commission. The federal government safeguards national interests, and the Commission safeguards international interests.

Many cases have come before the Commission for settlement under the terms of Article III of the Treaty during the ten years and more that it has been in existence, involving interests as far apart as water power corporations in Maine and New Brunswick and a water supply for the city of Winnipeg. It will be seen that the right of either country is reserved to build governmental works in boundary waters for the benefit of commerce and navigation, provided these works are "wholly on its own side of the line", but if the projected works extend across the international boundary they must have the approval of the International Joint Commission. A case in point was the proposal of the United States Government to dredge a channel in the St. Clair River. As this involved also a submerged weir extending across the river from the Michigan to the Ontario shore, the Washington government had to come to the Commission for approval before the works could be carried out.

It will be noted that in Article IV the approval of the Commission is required in the case of works built in waters flowing from boundary waters or in waters at a lower level than the boundary in rivers flowing across the boundary, but no provision is made for cases involving works in waters above the boundary in rivers flowing across the boundary. There is no reason to suppose that this class of cases was deliberately exempted. Probably it is merely an illustration of the fact that even the most carefully-drawn covenants may omit some important provision.

No cases have yet been brought before the Commission under the first paragraph of Article IV, but a suppositious case affecting waters flowing from boundary waters might be that of a dam in the St. Lawrence below Cornwall, or in the Winnipeg River below its outlet from the Lake of the Woods; and a case affecting waters at a lower level than the boundary in rivers flowing across the boundary might be similar works in the Red River in Canada or

the Columbia River in the United States. The Red River and the Columbia may also illustrate the third class of cases for which no provision was made in Article IV. That is to say, no provision is made for reference to the Commission of a case involving dams or obstructions or any other action, say on the United States side of the Red River, which might injure the property or other interests of the people of Manitoba; or, to reverse the situation, works on the Canadian side of the Columbia river which might prove injurious to the people of the State of Washington.

The second paragraph of Article IV prohibits the pollution of boundary waters and waters flowing across the boundary, and this question has been the subject-matter of a very elaborate investigation by the Commission under the terms of another Article of the Treaty to which I have not yet referred.

Article VIII formally confers the necessary jurisdiction on the Commission to act in all cases coming under Articles III and IV of the Treaty. So far as these classes of cases are concerned, the Commission is constituted to a limited extent an international court of appeal for both countries. Article VIII also defines the order of precedence to be observed among the various uses enumerated for these boundary waters, and it is provided that, "no use shall be permitted which tends materially to conflict with or restrain any other use which is given preference over it in this order of precedence."

This order of precedence recognizes the supreme importance of public health. All other uses are to be put aside so far as they conflict with the paramount requirement of "uses for domestic and sanitary purposes." Navigation interests come next. These interests on the Great Lakes are of immense and rapidly increasing importance. Over one hundred million tons of freight are carried annually on the Great Lakes, the value of which exceeds $1,000,000,000. Not only is an enormous capital tied up in navigation or transportation on these waters, but the communities large and small along their shores are to a considerable extent dependent thereon, and to a less degree communities farther afield but connected by transportation lines with the lakes. The third and final use in the order of precedence is "for power and for irrigation purposes."

Domestic and sanitary purposes therefore come first; navigation interests second; power and irrigation last. As a matter of fact, although bracketed together in the Treaty, power and irrigation do not bear at all the same mutual relation to navigation. Broadly speaking, power development along the international

frontier belongs to the eastern half of the continent, and irrigation to the western half. Power may come into direct conflict with navigation; irrigation is unlikely to do so. Use for power, though of less vital or general significance to the Great Lakes communities than uses for sanitation or navigation, is nevertheless of very great and rapidly increasing importance. On the St. Mary's River, the Niagara, the Upper St. Lawrence, and elsewhere along the boundary, hundreds of millions of dollars have already been invested in the development of only a fraction of the available power.

The composition of the Commission is fixed by Article VII of the Treaty. It consists of six members, three appointed by the President and three by the King on the recommendation of the Government of Canada. One may not perhaps realize at first the very unusual character of this tribunal. There is nothing else quite like it, nor has there been in the past. We have here three Americans and three Canadians, sitting not as national sections, more or less antagonistic, but as one judicial body, and pledged to give their best possible judgment, with the utmost impartiality, to the settlement of questions that arise sometimes on one side of the boundary and sometimes on the other.

It is significant of the sympathetic attitude of Canadians and Americans toward each other and toward their common problems, that in every case dealt with by the Commission since its organization the decision has been unanimous. The need has therefore never yet arisen to take advantage of that paragraph of Article VIII which provides that, in case the Commission fails to agree, the matter shall be referred back to the two governments. The members of the Commission have succeeded in every case in reaching a unanimous decision, and one which has done substantial justice to the interests concerned on both sides of the boundary, mainly because they have not approached the problems they had to deal with as two distinct groups of national representatives, each jockeying for advantages for its own side, but rather as members of a single tribunal, anxious to harmonize differences between the two countries, and to render decisions which would be fair and equitable to the people on both sides of the boundary.

To return to the Treaty; Article V fixes the authorized diversion from the Niagara River above the Falls, for power purposes, in the case of the United States at a daily diversion at the rate of twenty thousand cubic feet of water per second, and in the case of Canada at a daily diversion at the rate of thirty-six thousand cubic feet of water per second. The only statement in the Article as to the object of this limitation is that "it is expedient. . . . to limit the

diversion of waters from the Niagara River so that the level of Lake Erie and the flow of the stream shall not be appreciably affected". There is reason to believe, however, that at least one of the governing factors in drafting this article was the preservation of the scenic beauty of Niagara Falls. It is also understood that in allowing the larger amount to Canada, the facts were taken into account that the great bulk of the Horseshoe Fall lies in Canadian territory, and that Chicago was, and still is, diverting a considerable amount of water from Lake Michigan, which would otherwise go over Niagara Falls.

Since the date of the Treaty momentous changes have taken place in the situation at Niagara Falls. At the present time practically the whole amount of water authorized by the Treaty is in use, and by means of new processes of water power development an enormously greater efficiency is obtained from the quantity of water diverted than was the case ten years ago. The Hydro-Electric Power Commission of Ontario has completed its great Chippewa-Queenston diversion, by means of which practically double the head is obtained which can be secured at the Falls, and ultimately all the existing plants on the Canadian side at the Falls will probably be scrapped, and Canada's share of the water developed entirely at Queenston.

On the American side of the river, partly because of different physical conditions, another programme is being worked out. There the various plants at the Falls are being merged into one great development at the same place, and the drop in the river between the Falls and the Whirlpool will probably be utilized by cutting a tunnel through the rock and carrying the water down to a power house below the Whirlpool. Engineers are now confident that a considerably larger amount than that fixed by the Treaty may be diverted from the Falls without seriously impairing their scenic beauty; in fact it is said that by means of a submerged weir above the point of the Horseshoe—which is rapidly being transformed into a Hairpin—the erosion will be checked, the appearance of the Falls greatly improved, and at the same time a considerably larger amount made available for power development. Of course this cannot be done without a revision of the Treaty, but diversions below the Falls would not require a revision.

By Article VI of the Treaty, the High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries are to be treated as one stream for the purposes of irrigation and power, and the waters thereof apportioned equally between the two countries. These two rivers rise in Montana, the first in the Rockies

and the second in the foothills. Both cross the international boundary into Canada. The St. Mary flows into a tributary of the Saskatchewan, and ultimately finds its way into Hudson Bay. The Milk, after a course of about one hundred miles in Alberta, returns to Montana, and empties into the Missouri. The object of Article VI is to combine the waters of these two streams, and divide them equally between the people on either side of the boundary for irrigation purposes, this whole territory lying in what is known as the semi-arid belt. The measurement and apportionment of the waters of the two rivers is to be carried out under the direction of the Commission. An essential part of the project is the construction of a canal, now completed, from a point near the outlet of St. Mary's River from the Lower St. Mary's Lake, to a point on the Milk River. The United States share of the water is conveyed by means of this canal and the Milk River to irrigable lands in Montana, while Canada takes her share of the water mainly by irrigation canals from the St. Mary's River on the Canadian side.

This has been one of the most difficult and delicate problems entrusted to the Commission. A certain irritation had grown up among the farmers on both sides of the boundary, not so much because they mistrusted each other, as because of a feeling of helplessness over what was essentially an international situation. I am referring now to the years before the Treaty. When the Commission took hold of the matter, public hearings were held, the people directly interested on both sides were given the fullest possible opportunity to present their views, but unfortunately when there seemed every prospect of a practicable settlement the lawyers succeeded in throwing a monkey wrench into the machinery by presenting two distinct and conflicting interpretations of the language of Article VI of the Treaty. Counsel for the United States contended that in making the apportionment only those portions of the waters of the two rivers which actually cross the international boundary should be taken into account; while counsel for Canada argued that Article VI clearly contemplated the equal division of the entire waters of the two streams with all their tributaries. The matter dragged along for several years, with increasing exasperation to the people directly concerned, until at length the Commission went out to Montana and Alberta, leaving the lawyers behind, had a series of round table conferences with the farmers and the engineers, and finally issued an order based on their own interpretation of Article VI, which may or may not have been satisfactory to the lawyers, but at any rate satisfied the farmers

of Montana and Alberta, and gave them the water vitally necessary to their welfare.

Article XIV fixes the life of the Treaty, and therefore of the Commission, at five years from the date of the exchange of ratifications, "and thereafter until terminated by twelve months' written notice given by either High Contracting Party to the other". The five year period expired May 5th, 1915, but there is no indication of a desire on either side to denounce a convention the value of which has already been fully demonstrated.

In addition to its judicial functions under Articles III, IV and VIII, the Treaty contemplates the use of the Commission as an investigating body in connection with questions arising along the frontier.

Article IX provides that "any other questions or matters of difference arising....along the common frontier....shall be referred" to the Commission for examination and report, whenever either government shall request.

It will be seen that an investigation under Article IX may be requested by either government; that an obligation to make such a request is involved in the language of the Article, the word "shall" being construed as mandatory; and that in making such an investigation the findings of the Commission are not binding on the two countries, either as a decision or as an arbitral award.

"It would", in the language of an editorial in the *American Journal of International Law*, "be difficult to overestimate the advantage and convenience to both countries of having a permanent body, organized as this is with both countries equally represented, upon which either may call for a thorough investigation of any questions of difference involving the interests of their citizens or subjects along the thousands of miles of their common frontier."

It may be noted here that in actual practice all questions so far referred to the Commission for investigation under Article IX have been referred jointly by the two governments, although it is obvious from the language of the Article that either government could act independently if it saw fit to do so. It is also worth noting that, in the investigations so far reported on, the six Commissioners have been in every case in substantial accord in their conclusions and recommendations. Their recommendations under Article IX, like their decisions under Article III, have been unanimous.

Of the four questions so far referred to the Commission under the terms of Article IX, the first related to the construction of a

dyke in the Detroit River for the benefit of navigation; the second to the fixing of levels in the Lake of the Woods which would be best suited to the requirements of the various interests on both sides of the boundary; the third had to do with the pollution of boundary waters and appropriate remedies therefor; and the last requested recommendations as to the most practicable means of improving the St. Lawrence River between Lake Ontario and Montreal for navigation and water power.

All these investigations involved very large interests on both sides of the boundary. The first was vital to the safety of shipping on the Great Lakes, the tremendous value and tonnage of which has already been referred to. So far as the second is concerned, communities as far apart as Duluth and Winnipeg were more or less directly interested in the fixing of a level on the Lake of the Woods and its tributaries which would give the maximum benefit to the people of both countries. The Lake of the Woods looks pretty small on the map, but its watershed exceeds 26,000 square miles, equal to the combined areas of Massachusetts, New Hampshire, Rhode Island, Connecticut and Delaware. The capital invested in the various industries in this region is considerably over $100,000,000, its resources are enormous and of great variety, and they are only beginning to be developed.

Field investigations unprecedented in their magnitude were involved in the Pollution Investigation, in connection with both the fixing of the extent, causes and localities of pollution and the study of adequate remedies. This work was carried out, under the direction of the Commission, by a corps of sanitary experts and sanitary engineers, and throughout the investigation the Commission had the whole-hearted co-operation of the health services not only of the two federal governments but also of the various states and provinces along the boundary.

The St. Lawrence Investigation involved many economic and engineering questions. In connection with the former the Commission held public hearings in a great many Canadian and American centres, from New York, Boston and Montreal in the east, to Calgary, Helena and Boise in the west. The engineering side of the question was dealt with by a Board of Engineers drawn from the technical staffs of both countries. The Commission's final report, dealing exhaustively with every phase of this very big problem, filled about a dozen volumes. Only the main report and the report of the Engineering Board have been published.

So far we have considered the powers entrusted to the Commission as a judicial, or quasi-judicial, body under Articles III

and IV of the Treaty, and as an investigatory body under Article IX. The Treaty of 1909, however, goes even farther, and under Article X constitutes the Commission a tribunal for the final settlement of any question of any nature involving the rights, obligations or interests of either country in relation to the other. The importance of this provision of the Treaty can hardly be exaggerated. The obligation on the part of the governments to refer questions to the Commission under Article X is, it is true, moral rather than legal. Article IX reads "shall be referred", while Article X reads "may be referred". Nevertheless it will be noted that while under Article IX questions are referred to the Commission only "for examination and report", under Article X they are referred "for decision". The International Joint Commission therefore becomes under Article X in a very real sense a court of final jurisdiction for the two countries.

Another interesting point is that the Article contains no limitation as to the character of the questions that may be brought before the Commission for adjudication, other than that they must involve "the rights, obligations, or interests of the United States or the Dominion of Canada either in relation to each other or to their respective inhabitants." That obviously is a very flexible limitation, and embraces a tremendously large field within which Article X may be applied. It puts into operation throughout this immensely greater region, and under more promising conditions, much the same principles embodied in the convention creating the Central American Court of Justice in 1908, by which Costa Rica, Guatemala, Honduras, Nicaragua and San Salvador bound themselves to submit to the Court all controversies of whatever origin.

It is true that up to the present time no question or matter of difference has been referred under Article X to the Commission, but that need not be interpreted as a disinclination on the part of either or each government to entrust such questions to the Commission for final settlement. Rather it means that the relations of these two countries have been so cordial, have been—one may say—so extraordinarily fortunate, that since the Treaty was signed no occasion has arisen to take advantage of the terms of Article X.

Those who negotiated the Treaty of 1909 deliberately, and as the result of long and careful consideration, built a covenant designed to bind together these two nations of the New World more closely than any two countries that were not politically one. Someone has said that they builded better than they knew. One is inclined to dispute that statement. This Treaty is the fruit

of wise and constructive and far-seeing statesmanship. If James Bryce and Elihu Root had never achieved anything more than the Treaty of 1909, they would have earned the gratitude of the English-speaking world. The Treaty put into tangible and practicable shape the aspirations of Canadians and Americans for the closest possible union consistent with political independence. Canada's relations to the great Republic are to-day only slightly less intimate than her relations to the other members of the British Commonwealth. If Canadians are brethren to the English, Scotch and Irish, the Australians and New Zealanders, they are first cousins to the Americans. And, as happens often enough with family relations, the point of view and mutual understanding of the cousins is in some respects even a little closer than between the brothers.

In a letter to Sir Wilfrid Laurier, Sir George Gibbons said: "Mr. Root's desire was to dispense with the Hague Tribunal so far as concerns matters between the United States and Canada, and set an example to the world by the creation of a judicial board as distinguished from a diplomatic and partizan agency." So far as Lord Bryce was concerned, up to the time of his death he took the keenest possible interest in the Commission, and had complete faith in its possibilities of usefulness to Canada and the United States.

It is sometimes objected that the Commission is less effective than it might be, because it has not been clothed with police powers, has no means of enforcing its own decisions. That is surely a mistaken criticism. Oppenheim, speaking of international courts, says, "We have neither desire nor need to equip these courts with executive power", and if that could be said of international courts in general, it is doubly true of this particular court, representing as it does the interests of two neighbouring democracies, bound together by so many ties of sympathy and understanding. The enforcing of the decisions of the Commission rests with the governments of these two countries, and they can hardly be conceived as refusing to uphold the decisions of a tribunal they themselves have created.

But in the last analysis the success of this Commission, as a means of settling disputes and also of preventing them—and perhaps the latter is the more important service—must depend to a very large extent upon public understanding and support in the two countries. The people of the United States and Canada cannot be expected to give their whole-hearted support to such a radical departure, unless they thoroughly understand why the Commission was created and how it has carried on its very important work.

It is not, however, altogether easy to get widespread publicity

for such activities as those of the International Joint Commission, unless it happens to be dealing with a question such as the St. Lawrence Waterway project which has aroused intense interest on both sides of the boundary, and as to the merits of which there is a sharp difference of opinion. Newspapers are interested only in items of information that contain what they consider news value, and while many of the reports and decisions of the Commission vitally affect the interests of the people of the United States and Canada, their news value is not always apparent on the surface.

After all, it is hardly reasonable to expect the average citizen to appreciate the value of the Commission and the importance of getting behind it, if he finds many of the leaders of public opinion as indifferent and as ill-informed as himself. On more than one occasion men high in public life have referred to this international tribunal as an aggregation of "lame ducks". The expression is, to say the least, unfortunate, not so much because it reflects on the personnel of the Commission, as because it reflects on the Commission itself. So far as the Commissioners are concerned, some of them as a matter of fact are "lame ducks", if one correctly understands the term; that is, men who have been defeated in an election for Congress or Parliament. That in itself is not necessarily discreditable. A man might quite conceivably be rejected as a candidate for political honours, and still make a very excellent international Commissioner. And, after all, if the personnel of the Commission were not of the highest standard, the fault surely would lie with those who made the appointments, and who, knowing the very exceptional character of the work entrusted to these six Commissioners, might very reasonably be expected to select the best men available in either country. But all this is beside the point. The serious thing in this form of disparagement is the fact that it weakens the influence of the Commission as an international tribunal.

One cannot conceive any responsible statesman referring to the Supreme Court of the United States or the Supreme Court of Canada in such contemptuous terms. He would not dare to do so, because he knows that they have the respect and confidence of the great mass of the people, and anything calculated to hold them up to ridicule or weaken their authority would arouse a storm of protest. These courts are vital national institutions, and to attack them is almost as unforgivable an offence as to attack one's own country. If this Commission enjoyed the same respect and confidence, no public man would dream of applying to it such a contemptuous expression. Some day, it will, let us hope, be as

unpardonable to attack—not to criticize, for that is an entirely different matter, but to attack—the International Joint Commission, as it would be to-day to attempt to discredit the Supreme Court of either country.

It is perhaps too much to hope that the growth of a widespread sentiment of confidence in and respect for this international tribunal can be anything more than a very gradual process. The idea of such an institution is still apparently a novel one to the people of both the United States and Canada. They had become accustomed, if not quite reconciled, to the cumbersome and unwieldy methods of the old diplomacy, and have not yet grasped the fact that they now possess a really effective means of settling their differences, a means that is as much ahead of the old methods as the automobile is an improvement on the stage-coach.

When one comes to think of it, it is rather curious that the people of these two countries tolerated as long as they did the antiquated ways of diplomacy, and have shown so little enthusiasm for a substitute that has all the advantages and none of the disadvantages of the old method; for of all nations of the world the United States and Canada are least patient with unwieldy contrivances and superfluous red tape. Quick to see and equally quick to adopt any scheme that will increase their individual welfare or that promises improved social or political conditions, our people have been singularly slow to realize that this Commission is a striking example, in international relations, of that same efficiency and quick action which they demand in the field of business.

But, as a matter of fact, this tribunal means much more than that. We all feel that the relations between Canada and the United States are much closer, much more intimate, than between any two countries in Europe. We have to a very large extent the same political and social ideals, the same intellectual point of view, the same manners and customs, even the same prejudices. We have been good friends and neighbours for many generations, and we hope to remain good friends and neighbours for ever. But even the best of friends and neighbours are liable to have their moments of misunderstanding, and if these are not to develope into something more serious, it is important that nothing should stand in the way of their coming together and shaking hands across the fence. If that is important in the case of individuals, it is infinitely more important in the case of nations. If the individuals were compelled to resort to some extremely roundabout means of effecting a reconciliation, it is possible that the slight misunderstanding might grow into a formidable grievance before it could

be adjusted. And yet this is exactly the strain that for many generations we permitted to be put upon our good nature, on both sides of the boundary.

We have to thank the Treaty of 1909 for cutting the cords of the old bondage, and offering us instead a means of getting together and adjusting our differences with the minimum of friction and red tape. As the writer has ventured to say on another occasion, it does seem that the true measure of the Commission's usefulness to the people of the United States and Canada lies not so much in its positive as in its negative qualities, not so much in the cases it has actually settled as in the much larger number of cases that never come before it for consideration, simply because the Commission is there, as a sort of international safety-valve, and therefore the sting is taken out of the situation.

Lord Curzon referred to the International Joint Commission at Lausanne a few weeks ago as a significant illustration of what might be accomplished in connection with the Dardanelles. One is tempted to speculate what the effect might have been in Europe if in 1914 Austria and Serbia had had a tribunal vested with such wide powers as those possessed by the Commission, with jurisdiction centred in the Danube instead of the St. Lawrence. Austrian or Hungarian and Serb, instead of watching each other suspiciously from frontier fortresses, and attempting or pretending to compose their differences along the boundary by means of the cumbersome and roundabout and dangerously slow methods of diplomacy, might have met on common ground before a court in which both countries were equally represented. Old grievances, national sores, instead of being allowed to fester, could have been quickly and impartially examined, and a remedy perhaps found for them. Questions bearing within them the seeds of war might have been left to the decision of a Commission pledged to find a peaceful remedy.

Had Austria and Serbia possessed such a tribunal, we might have escaped the World War. But one must put a good deal of emphasis on the *might*, because after all, while international Commissions endowed with wide powers are very effective weapons of peace, they are only weapons. In peace as in war, it is not the gun, but the man behind the gun, that counts. Well-considered treaties are a tremendous asset to the nations concerned, if the people of these nations are determined to back them up. Otherwise they are "scraps of paper". Such a treaty and such a commission as we have here, would have saved millions of lives and incalculable

loss and suffering, if the European nations had been prepared to stand resolutely behind them—but not otherwise.

We have in America, what no two nations have possessed before, an entirely practicable and flexible means of solving our differences that leaves, or should leave, no loophole for a resort to the arbitrament of war. But it is as true here as it is in Europe that this or any other international agreement is comparatively valueless, if it remains merely a conventional arrangement agreed upon by a small group of statesmen. Without suggesting for a moment that there is the slightest likelihood of the United States and Canada ever again being brought into conflict, except as brothers in arms, there is no getting away from the fact that the Treaty of 1909 and the International Joint Commission will not and can not realize the tremendous possibilities of good that lie within them, until the people of these two neighbouring democracies determine to give them their intelligent and wholehearted support.

FROM AN ORIEL WINDOW

LOUIS H. JORDAN

I HAVE just drawn an armchair into the inviting recess whence now I am looking out upon an alluringly peaceful scene. The soft fresh verdure of a closely-cropped lawn invites and rests the eye. One can almost hear the rippling of the Thames as it flows close at hand, moving slowly towards the sea. And, inside this window, peace reigns too. The work of a strenuous day is ended. The light of a purpling dusk is peculiarly soothing. Sitting where I do, I am bathed in the rays of a really superb sunset,—my open casement, even in mid-winter, framing such a vision as in other days enkindled the genius of Turner and Whistler and not a few others of that *debonnaire* and artistic fraternity.

Unfortunately it will not be long before darkness comes, with its demand for artificial light and the drawing of the curtains. Nevertheless, some available moments remain. My writing pad is lying beside me, and my pen pleads that it may indulge a more playful mood during this brief respite from its ordinary and exacting tasks. It shall have its way.

There are many things of which I might write, as I am thinking for the moment of Halifax and of my happy college days in old Dalhousie. One topic, however, harmonizing exactly with my feelings, easily outbids the rest. At the end of two years spent in hotels, and in travelling to and fro by land and sea, a triple satisfaction fills me this evening with the calm of a great content.

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There is the joy of being re-established in a settled abode, sheltered beneath one's own roof-tree, and gladdened by the resumption of undertakings which can now be faced under conditions more favourable for their worthy accomplishment.

When it was decided that our home was to be transferred from Eastbourne to Chelsea, many a warning was uttered that it would not be possible to secure there the sort of dwelling we required. The houses erected in that part of London, still regarded as a highly-favoured district, are of course mostly of a type which necessitates considerable re-modelling. The old-world atmosphere which they preserve is coupled with certain disadvantages against which the